

Austin & Rogers, P.A.

ATTORNEYS AND COUNSELORS AT LAW

WILLIAM FREDERICK AUSTIN
(1930-2016)

TIMOTHY F. ROGERS
RAYMON E. LARK, JR.
RICHARD L. WHITT
EDWARD L. EUBANKS
W. MICHAEL DUNCAN*

COLUMBIA OFFICE
CONGAREE BUILDING
508 HAMPTON STREET, SUITE 300
POST OFFICE BOX 11716 (29211)
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 256-4000
FACSIMILE: (803) 252-3679
WWW.AUSTINROGERSPA.COM

OF COUNSEL:
JEFFERSON D. GRIFFITH, III

* ALSO ADMITTED IN N.C.

December 8, 2017

VIA, ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

Re: • **Docket Number 2017-10-E**
• **Request for Clarification of Order Number 2012-95, in the Context of IRP Filings**

Dear Ms. Boyd:

As you know, IRP filings with the Commission are governed by Order Number 98-502 and Order Number 2012-95, and are filed pursuant to Section 58-37-40, S.C. Code Ann., (1976, as amended). A literal portion of Order Number 2012-95, reads, "**Any Petitions to Intervene or written public comments must be filed within 30 days after the IRP is posted on the Commission website.**" (Emphasis not in original).

I am writing to you, asking for clarification of the cited portion of Order Number 2012-95. Namely, that in an intervention, the intervenor would have to file their Comments within 30 days, the same time frame for intervention.

We believe that a reasonable interpretation of the cited portion of Order Number 2012-95, should be:

- Anyone only filing Comments in an IRP Docket must do so within 30 days after the IRP is posted on the Commission website; or
- Anyone filing for Intervention in an IRP Docket, must intervene within 30 days after the IRP is posted on the Commission website, but the intervenor would then be able to file Comments without the restriction of 30 days.

Note the disjunctive “or”, which we believe means that anyone wishing to only file Comments must do so within 30 days after the IRP is posted on the Commission website, or anyone wishing to intervene and be a party with full rights of participation in an IRP Docket, must intervene within 30 days after the IRP is posted on the Commission website, but an intervenor would not have to both intervene and file Comments, within the initial 30 day period.

Therefore, an Intervenor approved by this Commission could file Comments after the 30 day period described above. Additionally, it appears that IRP Dockets are not Dockets in which a prefiled deadline correspondence is issued by the Commission staff, without a deadline.

Evidence to support our interpretation, is that three of my clients petitioned to intervene in IRP Docket 2017-10-E, on September 27, 2017, September 28, 2017, and September 29, 2017, all in compliance with Commission Order 2012-95. However, this Commission in its normal operations, did not approve intervention for all three of my clients, until its Directive Orders filed on October 11, 2017. October 11, 2017, is nominally 41 days after the date of the IRP filing, meaning that an Intervenor would be precluded by the literal terms of Order Number 2012-95, from filing Comments.

Finally, a recent Commission filing shows there is confusion¹ about the meaning of the above cited portion of Order Number 2012-95.

Please advise and this correspondence is,

Respectfully Submitted,

/s/ _____
Richard L. Whitt,
As Counsel for Southern Current
LLC; Newberry Solar I, LLC and
South Carolina Solar Business
Alliance, LLC.

RLW/cas

¹ The confusion caused a party to recently, after their intervention in this Docket, file a request for this Commission to extend the time to file Comments from the 30 day intervention/comment period, which meant this Commission had to consider the request for an extension of time and issue a Directive Order approving the same.

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2017-10-E**

IN RE: Duke Energy Carolinas, LLC's
2017 Integrated Resource Plan (IRP)

)
)
)
)
)
)

CERTIFICATE OF SERVICE

I, Carrie A. Schurg, an employee of Austin & Rogers, P.A., certify that I have served copies of the Cover Sheet, Correspondence concerning IRP Dockets and this Certificate of Service, as indicated below, via electronic mail on December 8, 2017.

Frank R. Ellerbe, III
Email: fellerbe@sowellgray.com

Heather Shirley Smith
Email: heather.smith@duke-energy.com

Jeffrey M. Nelson
Email: jnelson@regstaff.sc.gov

Rebecca J. Dulin
Email: Rebecca.Dulin@duke-energy.com

Elizabeth Jones
Email: ejones@selcsc.org

/s/ _____
Carrie A. Schurg

December 8, 2017
Columbia, South Carolina